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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

In re B.M., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

B.M.,

Defendant and Appellant.

F055300

(Super. Ct. No. 08CEJ6000375-1)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Fresno County. Timothy A. Kams, Judge.

Julia L. Bancroft, under appointment by the Court of Appeal, for Defendant and Appellant.

Edmund G. Brown, Jr., Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Michael P. Farrell, Assistant Attorney General, and Michael A. Canzoneri, for Plaintiff and Respondent.

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* Before Vartabedian, Acting P.J., Levy, J., and Kane, J.

Appellant, B.M., was adjudged a ward of the court after she admitted two robbery offenses (Pen. Code, § 211) charged in an Alameda County petition and a robbery offense (Pen. Code, § 212.5, subd. (c)) charged in a San Mateo County petition. On April 24, 2008, after the matters were transferred to Fresno County, the court committed B.M. to the Division of Juvenile Justice for a maximum term of confinement of 6 years. On appeal, B.M. contends: 1) the court prejudicially erred by its failure to advise her that an order of restitution was a direct consequence of her plea; and 2) restitution should be ordered to be paid jointly and severally with her co-participants. We will find merit to this latter contention. In all other respects, we will affirm.

FACTS

On July 5, 2007, B.M. entered a Bank of the West branch in Fremont and handed the teller a demand note stating, “Give me all your \$100 bills. Clean bills. Don’t give me any funny money. I have a gun.” The teller handed B.M. \$1,500.

On August 13, 2007, B.M. entered a Washington Mutual Bank branch in San Leandro and gave the teller a note stating, “This is a robbery. I have a gun in my hand. Get all the money, and give it to me.” The teller handed B.M. \$3,739 that contained a dye pack. As B.M. fled from the bank, the dye pack exploded causing B.M. to drop the money.

On August 17, 2007, B.M. entered a World Savings Bank branch in Hayward and handed the teller a note stating, “This is a hold up. Give me all your money, I have a gun[.] So no one will get hurt.” B.M. got away with \$3,000.

On August 20, 2007, B.M. entered a Wells Fargo Bank branch in Newark and handed the teller a note stating, “This is a robbery. I have a gun. Give me all your \$50’s and \$100 bills and no one will get hurt.” B.M. got away with \$4,400 that day.

On August 24, 2007, B.M. entered a Wells Fargo Bank branch in Fremont and handed the teller a note stating, “I have a gun. I only want good money, hundreds and

fifties, no fake twenties, or no bad twenties, and no one will get hurt.” The teller gave B.M. \$8,200.

On August 29, 2007, B.M. entered a Bank of the West branch in Castro Valley and handed the teller a note stating, “I have a gun. Give me the money. Give me the Big Bills \$100’s and 50’s[.] Good money only[.] No tricks nobody gets hurt.” The teller handed B.M. \$419 and a dye pack. As B.M. was leaving, the dye pack exploded in her purse causing her to drop it. B.M. got into a van but was arrested a short time later when the van was stopped.

B.M. was subsequently identified by witnesses as the perpetrator of the other bank robberies.

On August 31, 2007, a first amended petition was filed in Alameda Superior Court (case No. SJ07007909-01) charging B.M. with six counts of robbery and two counts of burglary (Pen. Code, § 459.).

On November 28, 2007, a petition was filed in San Mateo County Superior Court (case No. 77779) charging B.M. with one count of robbery and an arming enhancement (Pen. Code, § 12022, subd. (a)(1)).

On February 13, 2008, B.M. admitted two of the robbery counts in case No. SJ07007909-01 in exchange for the dismissal of the remaining counts and an agreement by the prosecutor to keep the case in juvenile court (see Welf. & Inst. Code, § 707).

On March 26, 2008, B.M. admitted the robbery count in case No. 77779 in exchange for the dismissal of the arming enhancement. Additionally, both matters were transferred to Fresno County, B.M.’s county of residence.

On April 24, 2008, the Fresno County Superior Court committed B.M. to the Division of Juvenile Justice for a maximum term of confinement of six years, the aggravated term of five years on one robbery count, a consecutive one-year term on a

second robbery count, and a stayed one-year term on the remaining robbery count. It also ordered her, without objection, to pay restitution to the victims.

DISCUSSION

The Court's Failure to Advise B.M. that Victim Restitution was a Direct Consequence of her Plea

Penal Code section 1202.4, subdivision (f) provides:

“Except as provided in subdivisions (q) and (r), in every case in which a victim has suffered economic loss as a result of the defendant’s conduct, the court shall require that the defendant make restitution to the victim or victims in an amount established by court order, based on the amount of loss claimed by the victim or victims or any other showing to the court. If the amount of loss cannot be ascertained at the time of sentencing, the restitution order shall include a provision that the amount shall be determined at the direction of the court. The court shall order full restitution unless it finds compelling and extraordinary reasons for not doing so, and states them on the record.”

“[R]estitution is a direct consequence of which [a defendant or juvenile] must be advised. [Citation.] The failure to advise an accused of the consequences of his or her guilty plea constitutes error which requires that the guilty plea be set aside *only if the error is prejudicial to the accused*. [Citation.] Upon a timely objection made at or before sentencing, the sentencing court must determine whether it is reasonably probable the defendant would have pleaded guilty if properly advised. [Citation.]” (*People v. Valdez* (1994) 24 Cal.App.4th 1194, 1203-1204.)

The trial court did not advise B.M. that victim restitution was a consequence of her plea. However, B.M. waived her right to raise this issue on appeal by her failure to object at her disposition hearing to the court’s restitution order. (*People v. Walker* (1991) 54 Cal.3d 1013, 1023.)

However, even if the issue were properly before us, we would reject it. The evidence of B.M.’s guilt was solid with witnesses identifying her as the perpetrator of each of the robberies she was charged with. In case No. SJ07007909-01 B. M. received a substantial benefit by the prosecutor dismissing four robbery counts and two burglary

counts and agreeing not to seek to have her tried as an adult. B.M. also received a substantial benefit for her plea in case No. 77779 because there was no apparent attempt to try her as an adult and the prosecutor dismissed an arming enhancement. Moreover, B.M. did not object or otherwise voice any dissatisfaction or concern at her disposition hearing when the court announced that she would be required to pay victim restitution. Accordingly, we conclude that the failure to advise B.M. about victim restitution was harmless.

Joint and Several Liability

B.M. contends the court erred by its failure to order that restitution be paid jointly and severally with her cooffenders. Respondent concedes and we agree.

Welfare and Institutions Code section 730.6, subdivision (h)(4) in pertinent part provides, “When feasible, the court shall also identify on the court order, any cooffenders who are jointly and severally liable for victim restitution.”

Although two adults were arrested with B.M. after the August 29, 2007, robbery, it is unclear from the record whether they were convicted in that case or whether anyone else was found to be criminally responsible for any of the robberies B.M. committed. Therefore, we shall remand this matter to the juvenile court so it can make this determination and identify in its restitution order any cooffenders who are jointly and severally responsible with B.M. for losses incurred in any of the robberies for which the cooffenders are found criminally responsible.

DISPOSITION

The matter is remanded to the juvenile court for it to determine whether anyone else was held criminally responsible for any of the robberies B.M. committed. Additionally, as to each robbery the court shall identify any cooffender who is jointly and severally liable for restitution with B.M. In all other respects the judgment is affirmed.